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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,960	10/24/2003	Nobuo Matsuyama	031251	6978

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT PAPER NUMBER

3618

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/691,960

Applicant(s)

MATSUYAMA, NOBUO

Examiner

Frank Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

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Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on Oct. 28, 2002. It is noted, however, that applicant has not filed a certified copy of the Japanese application as required by 35

U.S.C. 119(b); **Drawings**

2. Figures 8 and 9 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated (note the specification at page 9, lines 14-17). See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The abstract of the disclosure is objected to because of the following informalities: on lines 1 and 4-5, phrases such as "the invention provides" or "the invention relates to" are redundant and should be deleted; on line 3, "oversnow" is informal; on line 9, it appears at least one word is missing between "set" and "changeable". Correction is required. See MPEP § 608.01(b).

4. The disclosure is objected to because it is replete with informal language, such as: page 1, line 8 "In conventional..."; page 1, lines 13-14, "the rest portion of the output"; page 1, line 15, "a pressure oil". The entire disclosure should be carefully reviewed and revised for informal language. Additionally, the specification is objected to for containing references to specific claims: see page 5, line 17; page 6, line 6, line 12 and line 24; page 7, line 6, etc. References to specific claims should not be provided in the specification.

Appropriate correction is required.

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Claim Objections

5. Claims 1 and 2 are objected to because of the following informalities: in claim 1, line 2, "a pressure oil" is informal; in claim 1, line 4, "being traveled by driving..." is informal; in claim 1, line 6, there appears to be at least one word missing between "set" and "changeable (note claim 2, line 4 as well). Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 2, 3, and 5 (as dependent upon 1, 2, and 3) are rejected under 35 U.S.C. 102(b) as being anticipated by Bohrer (US 2002/0121399, published 5 September 2002, filed 21 February 2002). Bohrer teaches a hydraulically driven vehicle having a motor (16) driven by pressure oil from a pump (14) for driving the vehicle, wherein a maximum output set by a maximum angle of tilt of a swashplate of the pump or motor (see page 2, paragraph 0021, lines 7-9) may be changed (paragraph 0023) by an electronic control (22) under the effect of a selecting means (36), and further teaches that a maximum output may be set by a control (paragraph 0024, lines 3-7).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4 and 5 (as dependent upon claim 4) are rejected under 35 U.S.C. 103(a) as being unpatentable over Bohrer (cited above). Bohrer teaches a hydraulically driven vehicle having a motor driven by pressure oil from a pump or driving the vehicle, wherein a maximum output set by a maximum angle of tilt of a swashplate of the pump or motor may be changed by an electronic control under the effect of a selecting means, and further teaches that a maximum output may be set by a control. Bohrer fails to teach the minimum tilt angle being adjustable. It is well known to adjust a lower end of a drive range to allow either a creep speed or to overcome internal friction in a drive train, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide an adjustment for a minimum tilt angle so as to allow, for example, the setting of a creep speed or to provide a setting which overcomes internal friction in the drive train.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Foster (US 4,077,212), Gollner (US 5,390,759), Coutant et al. (US 5,553,453), Williams et al. (US 5,775,453), Braun et al. (US 6,272,950), Prohaska (US 6,321,866), and Sakamoto (US 6,684,634) teach hydraulic drives of pertinence.

11. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

(cont'd., over)

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Or faxed to one of the following fax servers:

Regular Communications/Amendments: 703-872-9326

After Final Amendments: 703-872-9327

Customer Service Communications: 703-872-9325

F. VANAMAN

Primary Examiner

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Handwritten signature of F. Vanaman, dated 6/29/05.